

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 05 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

VICTOR NIKOLAYEVICH
AVANESOV,

Petitioner,

v.

PETER D. KEISLER,** Acting Attorney
General,

Respondent.

No. 04-73085

Agency No. A77-813-476

MEMORANDUM AND ORDER*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 5, 2007***
San Francisco, California

Before: HUG, THOMAS, and TALLMAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The oral argument scheduled in this case for November 7, 2007 is vacated.

Pursuant to the motion by the Attorney General, we vacate the decision of the Board of Immigration Appeals (“BIA”) in this case and remand the petition for review to the BIA so that it may consider Petitioner Avanesov’s claim that the immigration judge was biased and that said bias resulted in the denial of his procedural due process right to a full and fair hearing. This remand is without prejudice and does not preclude either party from presenting any other issue raised in the petition for review in any future proceeding.

VACATED AND REMANDED.